

REMARKS/ARGUMENTS

Applicant responds herein to the Office Action dated May 6, 2004. A Petition for Extension of Time and the fee therefor are enclosed.

Responsive to the restriction requirement, the applicant elects the claims of Group I, and the Species A, generating an image using a frequency. Applicant makes this election with traverse.

The restriction requirement is submitted to be clearly erroneous. Applicant reproduces below method claim 63 and the corresponding apparatus claim 109.

63. A method of imaging a sample, the method comprising:
a) irradiating the sample to be imaged with pulsed electro-magnetic radiation with a plurality of frequencies in the range of 50 GHz to 84 THz;
b) subdividing an area of the sample which is to be imaged into a two dimensional array of pixels, and detecting radiation from each pixel over a plurality of frequencies; and
c) generating an image of the area of the sample from the radiation detected in step (b) using a frequency or a selection of frequencies from the plurality of frequencies in the pulsed electro-magnetic radiation.

109. An apparatus for imaging a sample, the apparatus comprising:
a) an emitter for irradiating the sample with pulsed electro-magnetic radiation having a plurality of frequencies in the range from 50 GHz to 84 THz;
b) means for subdividing an area of the sample into a two dimensional array of pixels;
c) a detector for detecting radiation from each pixel over a plurality of frequencies; and
d) means for generating an image of the area of the sample from the detected radiation by using a frequency or a selection of frequencies from the plurality of frequencies in the pulsed electro-magnetic radiation.

Simply comparing these two claims unambiguously establishes that they are directed to identical technical features. Indeed, the United States restriction requirements are more severe than those of the PCT. Even under U.S. practice, it is clear that the method and the apparatus are inextricably intertwined and that operation of the apparatus produces the result of the method and vice versa.

Normally, when the Patent Office asserts a restriction, it connotes that if, for example, the Examiner found prior art against the apparatus, it would not necessarily follow that the same

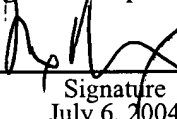
prior art negates patentability of the method. In this instance, it is definitely so. The method and apparatus are represented by independent claim 63 of Group I and apparatus claim 109 of Group II are directed to the same invention. The restriction requirement is clearly inappropriate. The applicant reserves the right to file a Petition against this restriction requirement, should the Examiner indicate that it has been made final.

Early and favorable consideration of this submission and the application on the merits are earnestly solicited.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Asst. Commissioner for Patents, Washington, D.C. 20231, on July 6, 2004

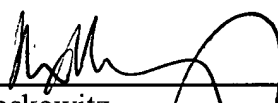
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Name of applicant, assignee or
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Signature
July 6, 2004

Date of Signature

Respectfully submitted,


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